

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CONTROL NEW MLSS LLC et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 4:21 CV 1522 CDP
)	
BRIAN TIMPONE, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This case is before me for review of subject-matter jurisdiction. Plaintiffs Control New MLSS LLC and Edward “Coach” Weinhaus bring this lawsuit alleging that the defendants violated Missouri law by fraudulently transferring assets subject to a potential judgment by Plaintiffs. Plaintiffs invoke this Court’s diversity jurisdiction under 28 U.S.C. § 1332. Because the complaint does not contain an adequate statement of citizenship with respect to any of the parties in this case, I will order Plaintiffs to file an amended complaint to properly allege this Court’s subject-matter jurisdiction.

The Eighth Circuit has admonished district courts to “be attentive to a satisfaction of jurisdictional requirements in all cases.” *Sanders v. Clemco Industries*, 823 F.2d 214, 216 (8th Cir. 1987). Diversity jurisdiction under 28 U.S.C. § 1332 requires an amount in controversy greater than \$75,000 and complete diversity of citizenship among the litigants. 28 U.S.C. § 1332(a). While Weinhaus seeks damages

exceeding \$75,000, his complaint fails to adequately allege the citizenship of the parties, thereby precluding me from determining whether diversity jurisdiction exists.

Plaintiffs describe Weinhaus and the members of Control New MLSS LLC as Missouri “resident[s].” As to all of the individual defendants, Plaintiffs claim that none of them reside in Missouri. For purposes of diversity, however, a statement of where an individual “resides” is insufficient to establish that person’s citizenship. *Sanders*, 823 F.2d at 216.


Plaintiffs also name Southern CB, LLC, Newsinator, LLC, Directech, LLC as defendants but describes them as unincorporated associations whose last existing members are non-residents of Missouri. For purposes of diversity, a limited liability company’s citizenship is the citizenship of all its members. *GMAC Commercial Credit LLC v. Dillard Dep’t Stores, Inc.*, 357 F.3d 827, 829 (8th Cir. 2004). Plaintiffs do not identify the members of any LLC. Nor do they allege the citizenship of any of the members of each LLC. In their amended complaint, Plaintiffs must clarify the organizational status of these defendants – that is, whether they are LLCs or unincorporated organizations – and properly allege their citizenship. And, as stated above, citizenship for diversity purposes cannot be derived from where one “resides.” Moreover, merely averring that a party is *not* a citizen of a particular State does not set forth with specificity that party’s citizenship for purposes of establishing diversity jurisdiction. *Gunapt Dev., L.L.C. v. Peine Lakes, L.P.*, No. 4:20-CV-01778-MTS, 2021 WL 3737273, at *1 (E.D. Mo. Aug. 24, 2021) (citing cases). *Cf. Howard v.*

Newrez, LLC, No. 4:21-CV-522 JAR, 2021 WL 2949535, at *5 (E.D. Mo. July 14, 2021) (party invoking diversity jurisdiction must identify the parties' States of citizenship).

Because there is no sufficient statement of citizenship with respect to any party in this case, I am unable to determine if this Court has subject-matter jurisdiction. Accordingly, I will give Plaintiffs fourteen (14) days to amend their complaint to properly allege this Court's subject-matter jurisdiction. Failure to timely comply with this Order may result in this action being dismissed without prejudice for lack of subject-matter jurisdiction.

Therefore,

IS IT HEREBY ORDERED that Plaintiffs Edward "Coach" Weinhaus and Control New MLSS LLC shall file an amended complaint within fourteen (14) days of the date of this Order to properly allege this Court's subject-matter jurisdiction. Failure to timely comply with this Order may result in this action being dismissed without prejudice for lack of subject-matter jurisdiction.


CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 1st day of February, 2022.